



General Assembly

February Session, 2014

## ***Amendment***

LCO No. 4493

**\*HB0545304493HD0\***

Offered by:  
REP. BECKER, 19<sup>th</sup> Dist.

To: Subst. House Bill No. 5453      File No. 305      Cal. No. 185

### ***"AN ACT CONCERNING EMPLOYERS AND HOME CARE WORKERS."***

1      Strike everything after the enacting clause and substitute the  
2      following in lieu thereof:

3      "Section 1. Section 31-76b of the general statutes is repealed and the  
4      following is substituted in lieu thereof (*Effective January 1, 2015*):

5      As used in sections 31-76b to 31-76j, inclusive:

6      (1) The "regular rate" at which an employee is employed shall be  
7      deemed to include all remuneration for employment paid to, or on  
8      behalf of, the employee, but shall not be deemed to include (A) sums  
9      paid as gifts; payments in the nature of gifts made at Christmas time or  
10     on other special occasions, as a reward for service, the amounts of  
11     which are not measured by or dependent on hours worked,  
12     production or efficiency; (B) payments made for occasional periods  
13     when no work is performed due to vacation, holiday, illness, failure of  
14     the employer to provide sufficient work, or other similar cause;

15 reasonable payments for traveling expenses, or other expenses,  
16 incurred by an employee in the furtherance of the employer's interests  
17 and properly reimbursable by the employer; and other similar  
18 payments to an employee that are not made as compensation for the  
19 employee's hours of employment; (C) sums paid in recognition of  
20 services performed during a given period if either, (i) both the fact that  
21 payment is to be made and the amount of the payment are determined  
22 at the sole discretion of the employer at or near the end of the period  
23 and not pursuant to any prior contract, agreement or promise causing  
24 the employee to expect such payments regularly; (ii) the payments are  
25 made pursuant to a bona fide profit-sharing plan or trust or bona fide  
26 thrift or savings plan, meeting the approval of the Labor  
27 Commissioner who shall give due regard, among other relevant  
28 factors, to the extent to which the amounts paid to the employee are  
29 determined with regard to hours of work, production or efficiency; (D)  
30 contributions irrevocably made by an employer to a trustee or third  
31 person pursuant to a bona fide plan for providing old-age, retirement,  
32 life, accident or health insurance or similar benefits for employees; (E)  
33 extra compensation provided by a premium rate paid for certain hours  
34 worked by the employee in any day or workweek because such hours  
35 are hours worked in excess of eight in a day or in excess of the  
36 maximum workweek applicable to such employee under section 31-  
37 76c, or in excess of the employee's normal working hours or regular  
38 working hours, as the case may be; (F) extra compensation provided  
39 by a premium rate paid for work by the employee on Saturdays,  
40 Sundays, holidays or regular days of rest, or on the sixth or seventh  
41 day of the workweek, where such premium rate is not less than one  
42 and one-half times the rate established in good faith for like work  
43 performed in nonovertime hours on other days; or (G) extra  
44 compensation provided by a premium rate paid to the employee, in  
45 pursuance of an applicable employment contract or collective-  
46 bargaining agreement, for work outside of the hours established in  
47 good faith by the contract or agreement as the basic, normal or regular  
48 workday, not exceeding the maximum workweek applicable to such  
49 employee under section 31-76c, where such premium rate is not less

50 than one and one-half times the rate established in good faith by the  
51 contract or agreement for like work performed during such workday  
52 or workweek. For the purpose of calculating the overtime rate of  
53 compensation required to be paid to an employee who is (i) employed  
54 as a delivery driver or sales merchandiser, (ii) paid on a base salary  
55 and commission basis, and (iii) not exempt from the overtime  
56 requirements of this chapter, the employee's regular rate shall be one-  
57 fortieth of the employee's weekly remuneration;

58 (2) (A) "Hours worked" include all time during which an employee  
59 is required by the employer to be on the employer's premises or to be  
60 on duty, or to be at the prescribed work place, and all time during  
61 which an employee is employed or permitted to work, whether or not  
62 required to do so, provided time allowed for meals shall be excluded  
63 unless the employee is required or permitted to work. Such time  
64 includes, but shall not be limited to, the time when an employee is  
65 required to wait on the premises while no work is provided by the  
66 employer. (B) All time during which an employee is required to be on  
67 call for emergency service at a location designated by the employer  
68 shall be considered to be working time and shall be paid for as such,  
69 whether or not the employee is actually called upon to work. (C) When  
70 an employee is subject to call for emergency service but is not required  
71 to be at a location designated by the employer but is simply required  
72 to keep the employer informed as to the location at which he may be  
73 contacted, or when an employee is not specifically required by his  
74 employer to be subject to call but is contacted by his employer or on  
75 the employer's authorization directly or indirectly and assigned to  
76 duty, working time shall begin when the employee is notified of his  
77 assignment and shall end when the employee has completed his  
78 assignment. (D) Notwithstanding the provisions of this subdivision,  
79 when an individual employed by a third-party provider to provide  
80 "companionship services", as defined in the regulations of the federal  
81 Fair Labor Standards Act, is required to be present at a worksite for a  
82 period of not less than twenty-four consecutive hours, such individual  
83 and his or her employer may agree in writing to exclude a regularly

84 scheduled sleeping period of not more than eight hours from hours  
85 worked, provided (i) adequate on-site sleeping facilities are furnished  
86 to such individual, and (ii) such individual receives at least five hours  
87 of sleep time. If the scheduled sleeping period is more than eight  
88 hours, only eight hours will be excluded. If the scheduled sleeping  
89 period is interrupted by an assignment to work, the interruption shall  
90 be counted as hours worked. If such individual does not receive at  
91 least five hours of sleep time during the scheduled sleeping period, the  
92 entire sleeping period shall be considered hours worked. The  
93 provisions of this subparagraph shall be effective on and after the  
94 effective date of the United States Department of Labor's Final Rule  
95 concerning the Application of the federal Fair Labor Standards Act to  
96 Domestic Service published in the Federal Register of October 1, 2013;

97 (3) "Employee" means employee, as defined in section 31-58."

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| This act shall take effect as follows and shall amend the following sections: |  |  |
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| Section 1 | January 1, 2015 | 31-76b |
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